

The Local Law Enforcement Hate Crimes Prevention Act of 2009 Does Not Burden Speech, Thought or Association

The Local Law Enforcement Hate Crimes Prevention Act of 2009 (H.R. 1913) is a carefully crafted measure that protects First Amendment rights while combating violent, bias-motivated crime. The Act contains multiple provisions designed to ensure free speech and association rights will not be burdened.

Speech alone cannot be prosecuted under the LLEHCPA.

Claims that speech alone will result in a hate crimes charge are categorically false. Nothing in this legislation would or *could* change First Amendment protections. The LLEHCPA punishes only violent *actions* not beliefs or thoughts – even violent thoughts. This fact is clear from the plain language of the legislation.

- *First*, in order to be classified a hate crime under this legislation; a bias-motivated crime must involve “death or serious bodily injury” or must be an attempt to cause bodily injury to a person through the use of fire, a firearm, or an explosive or incendiary device.
- *Second*, the Act contains language that clarifies First Amendment rights – including free speech and free exercise of religion, will be protected. The language reads:

Rule of Construction: Nothing in this Act, or the amendments made by this Act, shall be construed to prohibit any expressive conduct protected from legal prohibition by, or any activities protected by the free speech or free exercise clause of, the First Amendment to the Constitution.

- *Third*, the Act contains language that makes clear that speech and association rights will not be burdened. The language reads:

Rule of Evidence: In a prosecution for an offense under this section, evidence of expression or associations of the defendant may not be introduced as substantive evidence at trial, unless the evidence specifically relates to that offense. However, nothing in this section affects the rules of evidence governing impeachment of a witness.

Hate crimes laws have never been used to prosecute speech.

State hate crimes laws have been around for decades and the current federal hate crimes law has been in place since 1968; *not once* has anyone in our country actually been prosecuted for speech.

- Although opponents often cite the arrest of several members of the group “Repent America” at the October 2004 Philadelphia Outfest, a large annual gay, lesbian, bisexual and transgender block party, this incident actually illustrates how well the criminal justice system worked. Initially charged under Pennsylvania’s hate crimes statute for their disruptive behavior, a judge quickly recognized that what had occurred was not a hate crime – and she dropped the charges.

Violence is not free speech.

No person has a right to commit a violent hate crime in our great nation. These crimes *are* different from other crimes. The intentional selection and beating or murder of an individual because of who they are terrorizes an entire community and sometimes the country. Protecting Americans against this type of violence will not burden free speech but will aid us in ridding our nation of this type of hate filled violence.